

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

JOSE JIMINEZ	§	
v.	§	CIVIL ACTION NO. 6:06v126
BRENDA RENNER, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
DISMISSING DEFENDANT BRENDA RENNER

The Plaintiff Jose Jiminez, proceeding through counsel, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights during his confinement in the Texas Department of Criminal Justice, Correctional Institutions Division. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Jiminez originally sued correctional officers Christopher Divin and Brenda Renner. However, Jiminez now says that Renner was not present and has asked that she be dismissed, and that he be allowed to file his Second Amended Complaint reflecting the fact that Renner is no longer a party to the case.

On December 12, 2006, the Magistrate Judge issued a Report recommending that the request to dismiss Renner be granted and that Jiminez be allowed to file his second amended complaint deleting Renner as a party. No objections have been received to this Report; accordingly, the parties are barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has carefully reviewed the pleadings and documents in this case, as well as the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the Plaintiff's request to dismiss Brenda Renner as a party to this lawsuit is GRANTED. It is further

ORDERED that the Plaintiff's motion for leave to file his second amended complaint, filed November 20, 2006 (docket no. 39) is GRANTED.

So ORDERED and SIGNED this 12th day of February, 2007.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**